

CCDA Bill Tracking Report

Text Summary

SB 251

Author: Roth, Richard

Current Status: 7/17/15 Failed Deadline pursuant to Rule 61(a)(10). (Last location was REV. & TAX on 7/14/2015)

Current Location: 7/17/15 A-2 YEAR

Summary based on bill dated 07/13/2015

(1) Existing law prohibits discrimination on the basis of various specified personal characteristics, including disability. The Construction-Related Accessibility Standards Compliance Act establishes standards for making new construction and existing facilities accessible to persons with disabilities and provides for construction-related accessibility claims for violations of those standards. Existing law requires that a demand letter alleging a violation of a construction-related accessibility standard or asserting a construction-related accessibility claim include specified information, and that copies of the demand letter be sent to the ~~California Commission on Disability Access~~ and the State Bar of California. Existing law repeals the requirement that a copy of a demand letter be sent to the State Bar of California on January 1, 2016. This bill would extend the above-described January 1, 2016, repeal date, to January 1, 2019.

Existing law requires that a copy of the demand letter and the complaint be sent to the California Commission on Disability Access.

This bill would, in addition, require that information about the demand letter and the complaint be submitted to the commission in a standard format specified by the commission.

(2) Existing law ~~requires a certified access specialist (CAsp), upon completion of an inspection of a site, to issue a written inspection report for the site, as specified. Existing law provides, upon being served with a summons and complaint asserting a construction-related accessibility claim, that a defendant may file a request for a court stay and early evaluation conference in the proceedings, as specified. Under existing law, a defendant is liable for actual damages plus minimum statutory damages for each instance of discrimination. specifies that a violation of construction-related accessibility standards personally encountered by a plaintiff may be sufficient to cause a denial of full and equal access if the plaintiff experienced difficulty, discomfort, or embarrassment because of the violation.~~

~~This bill would provide that a business, prior to the initiation of litigation, receipt of a demand letter, or a business that is otherwise on notice of a violation of a construction-related accessibility standard prior to a CAsp inspection, is not liable for minimum statutory damages for violating a construction-related liability standard if the violation is corrected within 90 days of the date of an inspection by a CAsp. The bill would also~~

~~provide that a small business is not liable for minimum statutory damages for an alleged violation if the violation concerns interior or exterior signage, the color and condition of parking lot paint striping, or truncated domes and is corrected within 15 days of service of a summons and complaint in a construction-related accessibility claim or receipt of a written notice, whichever is earlier. exclude certain technical violations from the scope of this provision, if specified conditions are met.~~

(3) Under existing law, a defendant is liable for actual damages plus minimum statutory damages for each instance of discrimination relating to a construction-related accessibility standard.

This bill would exempt a defendant from liability for minimum statutory damages with respect to a structure or area inspected by a certified access specialist for a period of 120 days if specified conditions are met. The bill would require a defendant who claims the benefit of this provision, to disclose the date and findings of any certified access specialist (CASp) inspection to the plaintiff.

~~(3) Under existing federal law, a landlord and tenant are both responsible for compliance with the federal Americans with Disabilities Act of 1990 and implementing regulations. The parties to a lease agreement may allocate responsibility by the lease or other contract. Existing law requires a commercial property owner or lessor to state on every lease form or rental agreement executed on or after July 1, 2013, whether the property has been inspected by a CASp and, if so, whether or not the property has been determined to meet all applicable construction-related accessibility standards.~~

~~This bill would require a commercial property owner to state on every lease form or rental agreement executed on or after January 1, 2016, that the owner or lessor and the tenant are both responsible for compliance with the federal Americans with Disabilities Act of 1990 and that responsibility for compliance may be allocated between the parties by the terms of the lease or other contract.~~

~~(4) Existing law requires the State Architect to establish and publicize a program for the voluntary certification by the state of any person who meets specified criteria as a CASp. Existing law requires the State Architect to annually publish a list of CASps. Existing law requires each applicant for CASp certification or renewal to pay certain fees, and requires the State Architect to periodically review those fees, as specified. Existing law provides for the deposit of those fees into the Certified Access Specialist Fund, which is continuously appropriated for use by the State Architect to implement the CASp program.~~

~~This bill would additionally require the State Architect to publish, and periodically-regularly update, an easily accessible list-lists of businesses that file prescribed notices of inspection, and businesses which have been inspected by a CASp on or after January 1, 2016, including the date of the inspection. The bill would require the State Architect to develop a process by which a small business may notify the State Architect that a structure or area has had a CASp inspection and to develop a form for businesses to notify the public that the business has obtained a CASp inspection. The bill would also require applicants for CASp certification or renewal to additionally provide to the State Architect the name of the city, county, or city and county in which the applicant intends to provide or has provided services, and would require the Division of the State Architect to post that information on its Internet Web site.~~

~~(5) Existing law establishes the California Commission on Disability Access for~~

purposes of developing recommendations to enable persons with disabilities to exercise their right to full and equal access to public facilities and facilitating business compliance with applicable state and federal laws and regulations. Existing law sets forth the powers and duties of the commission, including developing educational materials and information for businesses, building owners, tenants, and building officials, posting that information on the commission's Internet Web site, and coordinating with other state agencies and local building departments to ensure that information provided to the public on disability access requirements is uniform and complete.

This bill would additionally require the commission to provide a link on its Internet Web site to the Internet Web site of the Division of the State Architect's CASp certification program, and make the commission's educational materials and information available to other state agencies and local building departments.

(6) The Planning and Zoning Law establishes procedures for the application, and review of an application, for a development project. Existing law requires a public agency to notify applicants for development permits of specified information, including the time limits established for the review and approval of development permits.

This bill would additionally require local agencies to develop and provide to applicants materials relating to the requirements of the federal Americans with Disabilities Act of 1990, or to instead provide similar materials developed by the California Commission on Disability Access. The bill would require a local agency to notify an applicant that approval of a permit does not signify that the applicant has complied with that act. The bill would also require local agencies to expedite review of projects for which the applicant provides a copy of a disability access certificate, demonstrates that the project is necessary to address an alleged violation of a construction-related access standard or a violation noted in a CASp report, and, if project plans are necessary for approval, has had a CASp review the project plans for compliance with all applicable construction-related accessibility standards. The bill would declare that these provisions constitute a matter of statewide concern and shall apply to charter cities and charter counties.

By imposing additional duties on local agencies with respect to the receipt and review of applications for development projects, this bill would impose a state-mandated local program.

(7) Existing federal law allows a credit against federal income taxes for eligible small businesses for eligible access expenditures, as those terms are defined, in an amount equal to 50% of eligible access expenditures for a taxable year that exceed \$250 but do not exceed \$10,250. The Personal Income Tax Law and the Corporation Tax Law allow a credit against the taxes imposed by those laws for the amount paid or incurred for eligible access expenditures in an amount equal to 50% of eligible access expenditures for a taxable year as do not exceed \$250, as specified.

This bill would, for taxable years beginning on or after January 1, 2016, and before January 1, 2023, allow to small businesses, as defined, a credit under both the Personal Income Tax Law and the Corporation Tax Law for eligible access expenditures in an amount equal to 50% of eligible access expenditures for a taxable year, as specified.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the

bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.